

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**DANETTE BARTON, EARLENE BROWN,
CATHRYN ANN BRYAN, ARLENE FERRELL,
PEARL HALL, DELISA HURBERT, EMILY
JONES, SAMANTHA LEWIS, TONDA
MARSHALL, JANIS McMILLAN, GREG
PALMER, DONNA RANDALL, JACQUELINE
ROBINSON, TAMMY WELCH, and
SHANNON D. WOOLARD,**

Plaintiffs,

v.

**CORRECTIONS CORPORATION OF
AMERICAN, a company, TULSA COUNTY
BOARD OF COUNTY COMMISSIONERS,
and TULSA COUNTY CRIMINAL JUSTICE
AUTHORITY,**

Defendants.

Case No. 03-CV-428-JHP-SAJ

ORDER AND OPINION

Before the Court is Plaintiffs’ Motion to File a Third Amended Complaint and Defendants’ Response in opposition, as well as Plaintiffs’ Renewed Motion for Class Certification, based upon their proposed Third Amended Complaint, and Defendant’s Response in opposition. Upon review of the briefs, and for reasons stated herein, Plaintiffs’ Motion to Amend is GRANTED in part and DENIED in part, and Plaintiffs’ Renewed Motion for Class Certification is DENIED in its entirety.

Plaintiffs’ Motion to Amend first notes that the composition of the parties has changed since this lawsuit was first filed. Plaintiffs Danette Barton, Cathryn Ann Bryan, Arlene Ferrell, Delisa Hurbert, and Tammy Welch were dismissed by order of the Court on August 12, 2004.

The Motion to Amend proposes to eliminate their names from the caption. The Motion to Amend also dismisses Plaintiffs' claims against the Tulsa County Board of County Commissioners and the Tulsa County Criminal Justice Authority, and leaves CCA as the sole Defendant. Plaintiffs' Motion is GRANTED IN PART so that future filings in this case will reflect these changes in the case caption.

Plaintiffs' Motion to Amend also proposes to narrow the definition of the proposed class of Plaintiffs to victims of facility-wide cross-gender strip searches. In its Order of September 1, 2005, the Court noted a discrepancy in Plaintiffs' definition of the class, and observed that Plaintiffs appeared to be focusing on strip searches and the Defendants' policies regarding the limitations or availability of those searches. While Plaintiffs' proposed amendment may cure the discrepancy, it does not address the Court's real concern that common questions of law and fact do not predominate in this lawsuit. Even under the more narrow definition, multiple searches took place, with multiple issues regarding the "reasonable suspicion" necessary to conduct such searches, and multiple implications for the rights of the Plaintiffs involved. Simply put, the proposed amendment does not change the Court's analysis under Fed. R. Civ. P. 23 (b)(3). The Court therefore finds that Plaintiff's proposed amendment would be futile. Accordingly, Plaintiffs' Motion to Amend is DENIED with regard to the definition of the class, and Plaintiffs' Renewed Motion for Class Certification is also DENIED.


James H. Payne
United States District Judge
Northern District of Oklahoma